



U.S. Department
of Transportation
**Federal Aviation
Administration**

Aviation Safety

800 Independence Ave
Washington, DC 20591

August 16, 2019

Exemption No. 8702G
Regulatory Docket No. FAA-2005-20788

Mr. Larry D. Kelley
Delaware Aviation Museum Foundation
21781 Aviation Avenue
Georgetown, DE 19947

Dear Mr. Kelley:

This letter is to inform you that we have granted your petition to extend Exemption No. 8702, as amended. It transmits our decision, explains its basis, and gives you the conditions and limitations of the exemption, including the date it ends.

The Basis for Our Decision

By letter dated June 4, 2019, you petitioned the Federal Aviation Administration (FAA) on behalf of Delaware Aviation Museum Foundation (DAMF) for an extension of Exemption No. 8702, as amended. That exemption provided relief from §§ 91.315, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow DAMF to operate the museum's aircraft for the purpose of carrying passengers for compensation or hire for living history flight experiences (LHFE).

In your petition, you indicate that there has been no change in the conditions and reasons relative to public interest and safety that were the basis for granting the original exemption.

Our Decision

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to DAMF.

The FAA has determined that the justification for the issuance of Exemption No. 8702, as amended, remains valid with respect to this exemption and is in the public interest. Therefore, under the authority provided by 49 U.S.C. §§ 106(f), 40113, and 44701, which the FAA Administrator has delegated to me, I grant Delaware Aviation Museum Foundation an exemption from §§ 91.315, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations

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(14 CFR) to the extent necessary to allow DAMF to operate aircraft for the purpose of carrying passengers for compensation or hire for living history flight experiences, subject to the following conditions and limitations.

Please note that the conditions and limitations included with an exemption may not be based on specific regulations, but are the FAA's means of ensuring an equivalent level of safety. This may necessitate limitations that go beyond the established regulations because the proposed operation is, by its need for an exemption, outside the normal regulatory structure. In addition, the FAA may, when necessary, revise the conditions and limitations or require corrective action in order to adequately mitigate safety concerns and risk factors, as they become known. This "Amended Exemption" cancels any conditions and limitations appended to previous exemptions. Please review and comply with the following conditions and limitations as they differ in many respects from previous exemptions.

Conditions and Limitations

1. This exemption applies only to the aircraft listed below:
 - a. B-25J, N9079Z, Serial No. 44-30734
2. DAMF must maintain and apply, on a continuous basis, an operational control structure that meets the criteria specified in the FAA living history flight experiences policy, hereinafter referred to as The FAA Policy, that was published on July 21, 2015 (80 FR 43012).
3. DAMF must maintain and apply, on a continuous basis, its Manual System, to include all documents contained herein, used as its basis for an equivalent level of safety, for all operations subject to this exemption. This system must continue to ensure all criteria in The FAA Policy are continuously met, including the conditions and limitations of this exemption. DAMF will be assigned a jurisdictional Flight Standards District Office (FSDO). DAMF must provide its manual system documents, including revisions, in a form and manner acceptable to the DAMF jurisdictional FSDO. Manual and document revisions and a record of revisions must be provided to the jurisdictional FSDO within 10 days of any changes. These documents include, at a minimum:
 - a. DAMF General Operations Manual (GOM);
 - b. DAMF Pilot Qualifications and Training Manual;
 - c. DAMF General Maintenance Manual (GMM);
 - d. DAMF Safety Management System (SMS) Manual; and
 - e. DAMF FAA-Approved Inspection Program (AAIP), for those aircraft that require compliance with an AAIP.

4. In order to participate in DAMF's program and operations, persons must initially, and on an annual basis, receive training appropriate to their position on the contents and application of DAMF's Manual System, safety and risk management program, and the conditions and limitations set forth in this exemption.
5. DAMF must maintain and apply, on a continuous basis, its safety and risk management program that meets or exceeds the criteria specified in The FAA Policy for all operations subject to this exemption. This includes, at a minimum, the DAMF Safety Management System (SMS), used as a basis for an equivalent level of safety.
6. DAMF must maintain all aircraft subject to this exemption in accordance with the—
 - a. DAMF General Maintenance Manual;
 - b. Maintenance requirements as specified in the appropriate type specification sheet, as amended;
 - c. When required by rule an FAA-approved maintenance inspection program that meets the requirements of § 91.409(e), (f)(4), and (g);
 - d. Appropriate military technical manuals; and
 - e. For those aircraft not required to maintain an AAIP, maintain the aircraft in accordance with § 91.409 (a) and (b).
7. DAMF must document and record all ground and flight training and testing. The documentation and records must contain, at minimum, the following information:
 - a. The date of each training or testing session;
 - b. The amount of time spent for each session of training given;
 - c. The location where each session of training was given;
 - d. The airplane identification number(s) in which training was received;
 - e. The name and certificate number (when applicable) of the instructor who provided each session of training;
 - f. The name and certificate number of the pilot who provided each session of testing; and
 - g. For verification purposes, the signature and printed name of the person who received the training or testing.

8. No person may serve as a flight crewmember unless, since the beginning of the 12th calendar month before that service, that pilot has completed all DAMF - and FAA-required training, and passed a competency check given by the FAA or an authorized check pilot in that aircraft, to determine the pilot's competence in practical skills and techniques. The competency check will consist of the maneuvers and procedures currently required for the original issuance of the commercial pilot certificate, except that an actual engine shutdown, restart and propeller feathering exercise, for those pilots already holding the appropriate Type Rating or Experimental Authorization, is not required.
9. DAMF must maintain the following information and records:
 - a. The name of each pilot crewmember DAMF authorizes to conduct flight operations under the terms and conditions of this exemption;
 - b. Copies of each pilot crewmember's pilot certificate, medical certificate, qualifications, and initial and recurrent training and testing documentation to comply with these conditions and limitations;
 - c. The name of each mechanic DAMF authorizes to conduct maintenance operations under the terms and conditions of this exemption;
 - d. Copies of each mechanic's certificate, qualifications, and initial and recurrent training, and testing documentation to comply with the terms and conditions of this exemption; and
 - e. Records of maintenance performed, and maintenance inspection records to comply with the conditions above. Maintenance and inspection records must meet the requirements of 14 CFR §§ 43.9, 43.11, and 91.405.
10. DAMF must make available to the FAA, upon request, any manual, document or record used to meet the criteria specified in The FAA Policy and these conditions and limitations.
11. Before permitting a person to be carried on board its airplane for the purposes authorized under this exemption, DAMF will inform that person of the type of airworthiness certificate held, and the significance of that certificate as compared to a Standard Airworthiness Certificate.
12. DAMF must notify the jurisdictional FSDO within 24 hours of any of the following occurrences by written report, by electronic mail, or by facsimile:
 - a. Each in-flight fire in any system or area that requires activation of any fire suppression system or discharge of a portable fire extinguisher;

- b. Each exhaust system component failure including the turbocharger components that causes damage to any engine, structure, cowling, or components;
- c. Each airplane component or system that causes, during flight, accumulation or circulation of noxious fumes, smoke, or vapor in any portion of the cabin or crew area;
- d. Except when intentional for training, each occurrence of engine shutdown or propeller feathering, and the reason for such shutdown or feathering;
- e. Each failure of the propeller governing system or feathering system;
- f. Any landing gear system or component failure or malfunction, which requires use of emergency or standby extension systems;
- g. Each failure or malfunction of the wheel brake system that causes loss of brake control on the ground;
- h. Each airplane structure that requires major repair due to damage, deformation, or corrosion and the method of repair;
- i. Each failure or malfunction of the fuel system, tanks, pumps, or valves;
- j. Each malfunction, failure, or defect in any system or component that requires taking emergency action of any type during the course of any flight; and
- k. For the purpose of this section, "during flight" means the period from the moment the airplane leaves the surface of the earth on takeoff until it touches down on landing.

13. All flight operations must be conducted —

- a. At a minimum operating altitude of not less than 1,000 feet above ground level (AGL);
- b. Between the hours of official sunrise and sunset, as established in the Air Almanac, as converted to local time;
- c. Within a 50-statute-mile radius of the departure airport with landings only permitted at the departure airport;
- d. With a minimum flight visibility of not less than 3 statute miles and a minimum ceiling of not less than 1,500 feet AGL;

- e. For passenger-carrying flights greater than 25 statute miles from the departure airport and up to 50 statute miles, the pilot-in-command (PIC) must obtain weather reports and forecasts prior to flight and valid for the duration of the proposed operation that indicate that the weather would be no less than 5 statute miles visibility and cloud ceilings no less than 2,000 feet AGL. Passenger-carrying operations shall be terminated if ceiling and visibility become less than the minimum required by these conditions and limitations. Weather forecasts listing discriminators such as probability (PROB), becoming (BECMG), or temporarily (TEMPO) shall be limiting; and
 - f. Operations conducted for the purpose of dispersing human remains must comply with applicable Federal, State, and local laws and regulations governing the dispersal of human remains.
- 14. All flight operations must carry no more than the maximum number of passengers permitted by the aircraft's weight and balance limitations and number of approved seats in the airplane.
 - 15. All aircraft must have the equipment listed in §§ 91.205(b) and 91.207, and that equipment must be in an operable condition during the flight.
 - 16. No later than 72 hours prior to commencing flight operations under the terms of this exemption, DAMF must notify the FSDO having geographic responsibility where it intends to conduct the flight operations and shall provide a copy of this exemption upon request.
 - 17. Aerobatic flight is prohibited while passengers are on board the aircraft.
 - 18. Flight within 500 feet of another aircraft (i.e., formation flying) is prohibited.
 - 19. Prior to flight, the PIC must ensure that a passenger briefing meeting the scope and content of § 135.117 has been provided to the passengers.
 - 20. Only those listed by DAMF as a qualified PIC or second-in-command (SIC) for the aircraft, may occupy a pilot station, or manipulate the flight controls.
 - 21. DAMF must operate all flights within the confines of its Manual System, the applicable regulations, and the conditions and limitations of this exemption, and is bound by whichever is more restrictive.
 - 22. Failure to comply with any of these conditions and limitations is grounds for the immediate suspension or revocation of this exemption.

23. The Philadelphia FSDO is the jurisdictional Flight Standards District Office for DAMF and is responsible for oversight of DAMF for all matters pertaining to this exemption and the operation of the aircraft under this exemption.

24. This exemption is not valid for operations outside of the United States of America.

The Effect of Our Decision

Our decision extends the termination date of Exemption No. 8702, as amended, to November 30, 2021 unless sooner superseded or rescinded.

Sincerely,

/s/

Rick Domingo

Executive Director, Flight Standards Service